

Maine Revised Statutes
Title 17-A: MAINE CRIMINAL CODE
Chapter 47: GENERAL SENTENCING PROVISIONS

§1158-A. FORFEITURE OF FIREARMS

1. As part of every sentence imposed, except as provided in subsection 2, a court shall order that a firearm must be forfeited to the State if:

A. That firearm constitutes the basis for conviction under:

- (1) Title 15, section 393;
- (2) Section 1105-A, subsection 1, paragraph C-1;
- (3) Section 1105-B, subsection 1, paragraph C;
- (4) Section 1105-C, subsection 1, paragraph C-1;
- (5) Section 1105-D, subsection 1, paragraph B-1; or
- (6) Section 1118-A, subsection 1, paragraph B; [2015, c. 485, §4 (AMD).]

B. The State pleads and proves that the firearm is used by the defendant or an accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13; or [2009, c. 336, §13 (AMD).]

C. The defendant, with the approval of the State, consents to the forfeiture of the firearm. [2009, c. 336, §13 (NEW).]

[2015, c. 485, §4 (AMD).]

2. Except as provided in subsection 3, a court may not order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1 if another person can satisfy the court by a preponderance of the evidence and prior to the imposition of the defendant's sentence that:

A. Other than in the context of either subsection 1, paragraph A, subparagraph (1) or subsection 1, paragraph B relative to murder or any other unlawful homicide crime, the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the defendant; [2013, c. 328, §3 (AMD).]

B. In the context of subsection 1, paragraph A, subparagraph (1), the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the defendant; or [2003, c. 657, §7 (NEW).]

C. In the context of subsection 1, paragraph B relating to murder or any other unlawful homicide crime, the other person, at the time of the commission of the crime, was the rightful owner from whom the firearm had been stolen and the other person was not a principal or accomplice in the commission of the crime. [2013, c. 328, §3 (AMD).]

[2013, c. 328, §3 (AMD).]

3. If another person satisfies subsection 2, paragraph B, a court shall nonetheless order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1, paragraph A, subparagraph (1) if the State can satisfy the court by a preponderance of the evidence both that the other person knew or should

have known that the defendant was a prohibited person under Title 15, section 393 and that the other person intentionally, knowingly or recklessly allowed the defendant to possess or have under the defendant's control the firearm.

[2003, c. 657, §7 (NEW) .]

4. The Attorney General shall adopt rules governing the disposition to state, county and municipal agencies of firearms forfeited under this section. A firearm not excepted under subsection 2, paragraph C must be destroyed by the State.

[2013, c. 328, §4 (AMD) .]

5.

[2013, c. 328, §5 (RP) .]

SECTION HISTORY

2003, c. 657, §7 (NEW). 2009, c. 336, §13 (AMD). 2013, c. 328, §§3-5 (AMD). 2015, c. 485, §4 (AMD).

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